



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-1097

Certain Solid State Storage Drives, Stacked Electronics components, and Products Containing Same

Institution of Investigation

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 21, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of BiTMICRO, LLC of Reston, Virginia. An amended complaint was filed on January 9, 2018. A supplement to the amended complaint was filed on January 18, 2018. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain solid state storage drives, stacked electronics components, and products containing same by reason of infringement of U.S. Patent No. 7,826,243 (“the ’243 Patent”); U.S. Patent No. 6,529,416 (“the ’416 Patent”); U.S. Patent No. 9,135,190 (“the ’190 Patent”); and U.S. Patent No. 8,093,103 (“the ’103 Patent”). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112,

Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the amended complaint, the U.S. International Trade Commission, on January 19, 2018, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain solid state storage drives, stacked electronics components, and products containing same by reason of infringement of one or more of claims 1, 2, 11, and 12 of the '243 Patent; claims 1-20 of the '416 Patent; claims 1-101 of the '190 Patent; and claims 12 and 16 of the '103 Patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Notwithstanding any Commission Rules that would otherwise apply, the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, as to whether the complainant has satisfied the economic prong of the domestic industry requirement. Any such decision shall be in the form of an initial determination (ID). Petitions for review of such an ID shall be due five calendar days after service of the ID; any replies shall be due three business days after service of a petition. The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 CFR 210.43, 210.44, and 210.45. The Commission expects the issuance of an early ID relating to the economic prong of the domestic industry requirement within 100 days of institution, except that the presiding ALJ may grant a limited extension of the ID for good cause shown. The issuance of an early ID finding that complainant does not satisfy the economic prong of the domestic industry requirement shall stay the investigation unless the Commission orders otherwise; any other decision shall not stay the investigation or delay the issuance of a final ID covering the other issues of the investigation;

(3) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1)

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

BiTMICRO, LLC

11921 Freedom Drive

Suite 550

Reston, VA 20190

(b) The respondents are the following entities alleged to be in violation of section 337,
and are the parties upon which the complaint is to be served:

Samsung Electronics Co., Ltd.

129 Samsung-Ro, Yeongtong-Gu

Suwon, Gyeonggi-do,

Republic of Korea

Samsung Semiconductor, Inc.

3655 North First Street

San Jose, CA 95134

Samsung Electronics America, Inc.

85 Challenger Road

Ridgefield Park, NJ 07660

SK Hynix Inc.

2091, Gyeongchung-daero

Bubal-eub Icheon-si

Gyeonggi-do
Republic of Korea

SK Hynix America Inc.
3101 North First Street
San Jose, CA 95134

Dell Inc.
1 Dell Way
Round Rock, TX 78664

Dell Technologies Inc.
1 Dell Way
Round Rock, TX 78664

Lenovo Group Ltd.
No. 6 Chuang Ye Road,
Shangdi Information Industry Base
Haidan District, Beijing
China 100085

Lenovo (United States) Inc.
1009 Think Place

Morrisville, NC 27560

HP Inc.

1501 Page Mill Road

Palo Alto, CA 94304

Hewlett Packard Enterprise Co.

3000 Hanover Street

Palo Alto, CA 94304

ASUSTeK Computer Inc.

No. 15, Li-Te Road, Peitou

Taipei, Taiwan

ASUS Computer International

800 Corporate Way

Fremont, CA 94539

Acer Inc.

8F, 88, Sec. 1, Xintai 5th Road Xizhi

New Taipei City 221

Taiwan

Acer America Corp.

333 West San Carlos Street, Suite 1500

San Jose, CA 95110

VAIO Corporation

5432 Toyoshina

Azumino, Japan 399-8282

Transcosmos America Inc.

879 West 190th Street, Suite 1050

Gardena, CA 90248

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Lisa R. Barton

Secretary to the Commission

Issued: January 19, 2018

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